

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

33 TAPS, LLC and HINOKI & THE BIRD,
LLC, individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

HEARTLAND PAYMENT SYSTEMS,
LLC,

Defendant.

Civil Action No.
3:21-cv-13855-ZNQ-DEA

**[PROPOSED] ORDER VACATING DENIAL OF DEFENDANT’S MOTION
TO DISMISS PLAINTIFFS’ AMENDED COMPLAINT OR, IN THE
ALTERNATIVE, TO COMPEL ARBITRATION**

Pursuant to L. Civ. R. 79.4, this Court having entered an Order on May 22, 2023 denying Defendant’s Motion to Dismiss Plaintiffs’ Amended Complaint Or, In The Alternative, To Compel Arbitration (Dkt. 48); and on September 17, 2024, the United States Court of Appeals for the Third Circuit having entered a Judgment vacating and remanding the matter to this Court (Dkt. 54), the Court ORDERS as follows:

1. The Third Circuit’s September 17, 2024 Judgment vacating this Court’s May 22, 2023 Order and remanding the matter is hereby implemented;

2. Defendant's Motion to Dismiss Plaintiffs' Amended Complaint Or, In The Alternative, To Compel Arbitration (Dkt. 48) is reinstated;

3. Within ten (10) days of this order, Plaintiffs shall file a corrected Amended Complaint revising the jurisdictional allegations to match those Plaintiffs made in responding to the Third Circuit's March 11, 2024 Order in the appeal (*see* appeal Dkts. 39 and 40);

4. Within twenty (20) days of this order, the parties shall simultaneously file briefs of no more than ten (10) pages discussing the impact of the Third Circuit's Order vacating the Court's prior ruling on Defendant's Motion to Dismiss Or, In the Alternative, To Compel Arbitration (Dkt. 48);

5. Following the parties' supplemental briefing, the Court will issue a new decision on Defendant's Motion in light of the Third Circuit's ruling; and

6. Discovery in this case will remain stayed pending the Court's resolution of Defendant's Motion.

DATED:

HON. ZAHID N. QURAISHI
UNITED STATES DISTRICT JUDGE

Dated: October 9, 2024

Respectfully submitted,

s/ Ryan T. Kearney

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CERTIFICATE OF SERVICE

I hereby certify that, on October 9, 2024, I caused a true and correct copy of the foregoing to be filed via the Court's ECF system, which will send notice to all counsel of record.

s/ Ryan T. Kearney

Ryan T. Kearney (NJB 90408-2012)